

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
EASTERN DIVISION**

**JAMES SPEARS, JR.
ADC # 122695**

PLAINTIFF

v.

No. 2:14-cv-2-DPM-PSH

**JEFFREY HUGHES, Sergeant, East Arkansas
Regional Unit; MITCHELL SPARKMAN,
Corporal, East Arkansas Regional Unit;
RODNEY MERRELL, Corporal, East
Arkansas Regional Unit; RENAE MAYO,
Corporal, East Arkansas Regional Unit;
PINKIE HILL, Sergeant, East Arkansas
Regional Unit; and CHRISTOPHER SPEED,
Corporal, East Arkansas Regional Unit**

DEFENDANTS

ORDER

1. The Court congratulates Spears, Sparkman, Merrell, Mayo, Hill, and Speed on their settlement. And the Court thanks Magistrate Judges Cavaneau and Harris for holding the settlement conference. The Final Scheduling Order is suspended; and the 14 September 2015 trial is canceled. *No. 95 & No. 99*. The Court will dismiss the case with prejudice as to the five settling Defendants unless some party requests relief before 18 September 2015.

2. On Defendant Hughes. The return reflects that Hughes was served by certified mail. *No. 21*. But it does not reflect that a return receipt was requested or that delivery was restricted to him. These are essentials for good

service. FED. R. CIV. P. 4(e)(1); ARK. R. CIV. P. 4(d)(8)(A)(i). Because it's not clear that Hughes was properly served, the Court vacates the Clerk's default, *No* 58. This defect was not Spears's fault. The Court therefore reopens the time for Spears to serve Hughes until 17 December 2015. FED. R. CIV. P. 4(m).

3. The Court has appointed counsel for Spears. He can and should handle service of process now. The Court directs the Clerk to provide counsel with Hughes's last known address, which is under seal. *No* 10.

So Ordered.

D.P. Marshall Jr.
D.P. Marshall Jr.
United States District Judge

19 August 2015